

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Revision of Procedures Governing Amendments)	MB Docket No. 05-210
To FM Table of Allotments and Changes of)	RM-10960
Community of License in the Radio Broadcast)	
Services)	

To: The Commission

COMMENTS OF BUSTOS MEDIA, LLC

Bustos Media, LLC and its affiliated companies (Bustos), is a minority-owned broadcasting company, which has 23 radio stations serving the Spanish speaking community in the western United States. Bustos has reviewed the FCC proposal in the captioned Notice of Proposed Rule Making, FCC 05-120, released June 14, 2005. These comments deal primarily with the rules dealing with AM Broadcast stations, although Bustos also supports greater flexibility for FM stations as proposed in the Notice.

1. The present rules are, in Bustos' judgment, outdated and harmful to the public's interest, as they do not allow reasonable changes for AM licensees and permittees who frequently face changes due to events beyond their control.

2. The Commission gives permittees and licensees only three years on a construction permit to build a new AM broadcast station or to modify an existing one. Unfortunately, directional AM broadcast stations normally require large parcels of land for their transmitter sites (20 to 40 acres is a common size) and such parcels are often leased and require land use approvals. Therefore, existing stations routinely have problems in their attempt to improve their facilities. AM broadcasters facing expiration of their leases often have difficulty finding new sites that will enable them to continue

providing maximum service, to their target audience, and meet their community of license daytime and night time signal strength requirements.

The situation is even worse for holders of new multi-tower directional AM construction permits. These permittees are often minority individuals because this type of facility is one of the few remaining points of entry into the broadcasting industry. Much of the trouble for these AM broadcasters starts when the reasonable assurance given to lease the site, initially secured many months before during the lengthy permitting process, evaporates. Finding new land in (or near) a major metropolitan area, where most of the minority population now lives, is often a major undertaking that can take months or years. This difficulty is exacerbated by the municipalities' land use regulations and frequent opposition by environmental groups and/or local residents. The impact of the current Commission regulations and irregular opening of filing windows, combined with the tower-hostile local land use policies has a disproportionate impact on small minority broadcasters; and consequently, on the population needing new radio service who they are trying to serve.

3. The Commission has long allowed modifications of licenses or construction permits specifying new transmitter sites for a multitude of reasons. If technically feasible, one could go from 1,000 watts to 50,000 watts from the same tower site without much regulatory constraints. Unfortunately, this improvement flexibility is severely limited under the current regulations when designating a change of site as well as a "community of license" since it is classified by the FCC as a major modification. This classification policy probably made sense in the early stages of allocating radio licenses throughout the country in an attempt to get a wider distribution of radio services but, today it is

unnecessary, too restrictive and counterproductive. The most impacted broadcasters would be the typical small and minority permittee who loses the reasonable assurance to use a parcel of land given many months ago; or the licensee who is displaced after the lease is not renewed because the land at the transmitter site is now more valuable than the broadcast facility itself. These AM broadcasters will often need to move beyond the very small area originally designated as their community of license. The licensee or permittee must then find a new community of license that can be served from the best available site. Under the present rules, a major change or major modification application (for a construction permit) is then necessary to specify that new community of license. It often then becomes impossible to comply with the daytime and night time signal requirements. Currently there is no ability to file such an application except within a filing window. The licensee or permittee is totally dependent on those unpredictable AM filing windows. The Commission has opened AM filing windows on a very irregular basis. The latest filing window was in January, 2004, and that was four years after the previous window. In fact, if Bustos had received a new construction permit in January 2000 and subsequently encountered typical zoning and land use problems, under the current regulatory system, the permit would have expired prior to the Commission's next filing window which was not opened until January 2004.

4. The Commission's proposal in this MB Docket 05-210 is helpful in that it proposes that applications for minor modifications be processed on a first-come, first-served basis, and evaluated in accordance with normal Section 307(b) policies. This proposal is totally consistent with the Communications Act of 1934, as amended, is fair, and is in the interest of the general public, the dwindling number of minority broadcasters

as well as, the minority communities which they will eventually serve. The Commission's proposal recognizes that licensees and permittees must be treated the same, as they will both encounter equally harsh realities of scarce land availability for multiple tower sites and strong local opposition to new tower construction.

Therefore, Bustos Media, LLC respectfully requests that the Commission enact the proposal in the Notice to permit changes of community of license by both licensees and by permittees of unbuilt AM facilities by minor change and minor modification applications.

Respectfully submitted,

BUSTOS MEDIA, LLC.

A handwritten signature in black ink that reads "Amador S. Bustos". The signature is written in a cursive style with a large, stylized initial 'A'.

By: _____
Amador S. Bustos, President and CEO

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